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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|------------------------|---------------------|------------------|
| 10/526,856      | 03/03/2005  | Jaime Prat Urreiztieta | G80-032 US          | 5421             |

21706 7590 04/14/2006

NOTARO AND MICHALOS  
100 DUTCH HILL ROAD  
SUITE 110  
ORANGEBURG, NY 10962-2100

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| EXAMINER |
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LIN, KUANG Y

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| ART UNIT | PAPER NUMBER |
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1725

DATE MAILED: 04/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/526,856

Applicant(s)

PRAT URREIZTIETA, JAIME

Examiner

Kuang Y. Lin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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1. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 involves an improper Markush format.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-12 insofar as definite are rejected under 35 U.S.C. 103(a) as being unpatentable over either US 6,197,850 to Posada Fernandez et al. or US 6,360,808 to Twardowska et al. and further in view of WO 00/73236 to Skerdi (or the corresponding US 6,972,059).

Each of the primary references substantially shows the invention as claimed except that their exothermic compositions contain fluoride. However, WO '236 shows that it is desirable to use a fluoride free exothermic composition for forming feeder due to environmental reason. The composition contains aluminum and magnesium as fuel. It would have been obvious to use the exothermic composition of the primary reference free of fluoride and containing aluminum and magnesium as fuel in view of WO '236. (Fluoride functions as a catalyst (see Norton, col. 3, line 36+ and Takashima, col. 4, line 38+. The

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additional use of magnesium as fuel in WO' 236 is to act as igniting primer (see Montgomery, col. I, line 24+) to compensate the function of fluoride).

4. Applicant's arguments filed April 5, 2006 have been fully considered but they are not persuasive.

a. Applicant's main argument is that Skerdi disparages or discourages the use of fluoride-free exothermic feeder masses (see page 9 of the remarks). However, in col. 2, lines 17-29 of Skerdi it states that "[t]he subject matter of the invention is thus an exothermal feeder mass ----- which is essentially free of fluoride-containing fluxes". "Essentially free" is defined as having a fluoride content below 1.0, preferably below 0.5, most preferably below 0.1% by weight". Further, there is no fluoride in examples 1 and 2 of the exothermic feeder mass composition. Thus, it is abundantly clear from the entire disclosure as a whole that Skerdi does show to preferably use a fluoride-free exothermic composition as a feeder mass.

b. In page 11, 3<sup>rd</sup> paragraph of the remarks applicant stated that none of the references teaches the step of forming a double chamfer on an opening of the exothermic sleeve in order to facilitate the subsequent removal of the deadhead from the cast piece. However, that feature is notorious old in the foundry art (see, for example; US 3,815,665 to Baur, US 5,299,625 to Miki, US 6,343,642 to Miki, US 4,719,958 to Schopp et al. and US 4,574,869 to Trinkl et al.) Thus, applicant's argument is moot.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuang Y. Lin whose telephone number is 571-272-1179. The examiner can normally be reached on Monday-Friday, 10:00-6:30,.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kuang Y. Lin  
Primary Examiner  
Art Unit 1725

4-12-06